

Introduced by Senator SteinbergFebruary 21, 2012

An act to amend Sections 21, 4030, 4031, 4032, 4033, 4040, 4050, 4051, 4052, 4060, 4061, 4090, 4091, 4094, 5370.2, 5510, 5513, 5514, 5530, 5585.22, 5601, 5602, 5604, 5610, 5652.7, 5653, 5653.1, 5654, 5655, 5664, 5664.5, 5692, 5701, 5701.1, 5707, 5715, 5717, 5751, 5751.1, 5751.2, 5770, 5770.5, 5771, 5771.3, 5772, 5815, 5840, 5845, 5851.5, 5852.5, 5854, 5855, 5855.5, 5868, 5869, 5878, 5878.3, 5880, 5890, 11325.7, 11462.01, and 18986.40 of, and to add Section 4024.7 to, the Welfare and Institutions Code, relating to health.

LEGISLATIVE COUNSEL'S DIGEST

SB 1136, as introduced, Steinberg. Health: mental health: health equity.

Under existing law, the State Department of Mental Health is authorized and required to perform various functions relating to the care and treatment of persons with mental disorders.

Existing law, the Mental Health Services Act, an initiative measure enacted by the voters as Proposition 63 at the November 2, 2004, statewide general election, establishes the Mental Health Services Fund to fund various county mental health programs. The act provides that it may be amended by the Legislature by a $\frac{2}{3}$ vote of each house as long as the amendment is consistent with and furthers the intent of the act, and that the Legislature may also clarify procedures and terms of the act by majority vote.

This bill would transfer various functions of the State Department of Mental Health to the State Department of Health Care Services. This bill would make various technical and conforming changes to reflect the transfer of state mental health responsibilities.

This bill would authorize the Governor or the Director of Health Care Services to appoint, subject to confirmation by the Senate, a Deputy Director of Mental Health and Substance Use Disorder Services of the State Department of Health Care Services.

This bill also would state the intent of the Legislature to create an Office of Health Equity to comprehensively address issues of health disparity, promote healthy communities, and improve individual health outcomes.

Existing law requires the State Department of Mental Health to adopt as part of its overall mission the development of community-based, comprehensive, interagency systems of care that target seriously emotionally and behaviorally disturbed children, as specified.

This bill would instead authorize, rather than require, these provisions to be implemented.

This bill would declare that it clarifies procedures and terms of the Mental Health Services Act.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. It is the intent of the Legislature to enact
- 2 legislation to realign state administration of community-based
- 3 mental health services. By enacting this legislation, it is the intent
- 4 of the Legislature to do all of the following:
- 5 (a) Improve access to culturally appropriate community-based
- 6 mental health services, including a focus on client recovery, social
- 7 rehabilitation services, and peer support.
- 8 (b) Offer fuller integration of health, mental health, and
- 9 behavioral health services to individuals in need of these critical
- 10 services.
- 11 (c) Offer constructive opportunities for a more inclusive and
- 12 comprehensive delivery system for individuals needing access to
- 13 the full continuum of prevention and treatment services.
- 14 (d) Establish a qualitative process of seeking meaningful
- 15 stakeholder participation in policy development and policy
- 16 decisionmaking.
- 17 (e) Increase accountability and program effectiveness for
- 18 publicly funded mental health systems and the health care
- 19 purchasing functions of state government.

1 (f) Effectively integrate the financing of services, including the
2 receipt of federal funds, to more effectively provide services.

3 (g) Provide focused, high-level leadership for mental health and
4 behavioral health services within the state administrative structure.

5 (h) Eliminate administrative redundancies and inefficiencies
6 across programs.

7 SEC. 2. It is the intent of the Legislature to enact legislation
8 to create an Office of Health Equity to comprehensively address
9 issues of health disparity, promote healthy communities, and
10 improve individual health outcomes. By enacting this legislation,
11 it is the intent of the Legislature to do all of the following:

12 (a) Provide consultation to increase public awareness of health
13 disparities, both in terms of public health, mental health, substance
14 use disorders, and the health care purchasing functions of state
15 government.

16 (b) Identify and recommend policies and actions to improve
17 social and environmental conditions.

18 (c) Implement policies and programs that result in a sustainable
19 improvement in the health and mental health status of underserved
20 and disparate communities by working with local communities,
21 local agencies, policymakers, insurers, health care providers, mental
22 health providers, state departments, and others.

23 (d) Provide technical assistance to state departments, boards,
24 and agencies on incorporating a health equity framework into
25 health-related planning processes, programs, and policy efforts.

26 (e) Conduct research, data collection, and analysis to identify
27 health disparities and develop policy priorities and efforts to
28 improve health equity.

29 SEC. 3. Section 21 of the Welfare and Institutions Code is
30 amended to read:

31 21. (a) Whenever any reference is made in any provision of
32 this code to the “State Department of Benefit Payments” or the
33 “Department of Benefit Payments” with respect to aid, it means
34 the State Department of Social Services.

35 Whenever any reference is made to the “State Department of
36 Benefit Payments” or “Department of Benefit Payments” with
37 respect to mental disorders, it means the State Department of
38 ~~Mental Health Care Services~~. Whenever reference is made to the
39 “State Department of Benefit Payments” or “Department of Benefit

1 Payments” with respect to developmental disabilities, it means the
2 State Department of Developmental Services.

3 (b) Whenever any reference is made in any provision of this
4 code to the “State Department of Health” or the “Department of
5 Health” with respect to health services, medical assistance, or
6 benefits, it means ~~the State Department of Health Services~~ *either*
7 *the State Department of Health Care Services or the State*
8 *Department of Public Health, as applicable.*

9 Whenever any reference is made to the “State Department of
10 Health” or the “Department of Health” with respect to mental
11 disorders, it means the State Department of ~~Mental Health Care~~
12 *Services*. Whenever any reference is made to the “State Department
13 of Health” or “Department of Health” in respect to developmental
14 disabilities, it means the State Department of Developmental
15 Services.

16 (c) Whenever any reference is made in any provision of this
17 code to the “Director of Benefit Payments” with respect to aid, it
18 means the Director of Social Services.

19 Whenever any reference is made to the “Director of Benefit
20 Payments” with respect to mental disorders, it means the Director
21 of ~~Mental Health Care Services~~. Whenever any reference is made
22 to the “Director of Benefit Payments” with respect to
23 developmental disabilities, it means the Director of Developmental
24 Services.

25 (d) Whenever any reference is made in any provision of this
26 code to the “State Director of Health” or “Director of Health” with
27 respect to health services, medical assistance, or benefits, it means
28 ~~the State Director of Health Services~~ *Director of Health Care*
29 *Services or the State Public Health Officer, as applicable.*

30 Whenever any reference is made to the “State Director of Health”
31 or “Director of Health” with respect to mental disorders, it means
32 Director of ~~Mental Health Care Services~~. Whenever any reference
33 is made to the “State Director of Health” or “Director of Health”
34 with reference to developmental disabilities, it means the Director
35 of Developmental Services.

36 SEC. 4. Section 4024.7 is added to the Welfare and Institutions
37 Code, to read:

38 4024.7. The Governor or the Director of Health Care Services
39 may appoint, subject to confirmation by the Senate, a Deputy
40 Director of Mental Health and Substance Use Disorder Services

1 of the Department of Health Care Services. The salary for the
2 deputy director shall be fixed in accordance with law.

3 SEC. 5. Section 4030 of the Welfare and Institutions Code is
4 amended to read:

5 4030. The Director of ~~Mental~~ *Health Care Services* shall
6 organize appropriate staff of the department to ensure
7 implementation of the planning, research, evaluation, technical
8 assistance, and quality assurance responsibilities set forth in this
9 chapter.

10 SEC. 6. Section 4031 of the Welfare and Institutions Code is
11 amended to read:

12 4031. The State Department of ~~Mental~~ *Health Care Services*
13 shall, to the extent resources are available, do all of the following:

14 (a) Conduct, sponsor, coordinate, and disseminate results of
15 research and evaluation directed to the public policy issues entailed
16 in the selection of resource utilization and service delivery in the
17 state.

18 (b) Make available technical assistance to local mental health
19 programs incorporating the results of research, evaluation, and
20 quality assurance to local mental health programs.

21 (c) Implement a system of required performance reporting by
22 local mental health programs.

23 (d) Perform any other activities useful to improving and
24 maintaining the quality of ~~state mental hospital and~~ community
25 mental health programs.

26 SEC. 7. Section 4032 of the Welfare and Institutions Code is
27 amended to read:

28 4032. The ~~department~~ *State Department of Health Care*
29 *Services* shall, when appropriate, give and receive grants and
30 contracts for research, evaluation, and quality assurance efforts.

31 SEC. 8. Section 4033 of the Welfare and Institutions Code is
32 amended to read:

33 4033. (a) The State Department of ~~Mental~~ *Health Care*
34 *Services* shall, to the extent resources are available, comply with
35 *Substance Abuse and Mental Health Services Administration*
36 federal planning requirements. The department shall update and
37 issue a state plan, which may also be any federally required state
38 service plan, so that citizens may be informed regarding the
39 implementation of, and long-range goals for, programs to serve

1 mentally ill persons in the state. The department shall gather
2 information from counties necessary to comply with this section.

3 (b) (1) If the State Department of ~~Mental Health Care Services~~
4 makes a decision not to comply with any *Substance Abuse and*
5 *Mental Health Services Administration* federal planning
6 requirement to which this section applies, the State Department
7 of ~~Mental Health Care Services~~ shall submit the decision, for
8 consultation, to the California ~~Conference of Local Mental Health~~
9 *Directors Association*, the California Council on Mental Health,
10 and affected mental health entities.

11 (2) The State Department of ~~Mental Health Care Services~~ shall
12 not implement any decision not to comply with *the Substance*
13 *Abuse and Mental Health Services Administration* federal planning
14 requirements sooner than 30 days after notification of that decision,
15 in writing, by the Department of Finance, to the chairperson of the
16 committee in each house of the Legislature which considers
17 appropriations, and the Chairperson of the Joint Legislative Budget
18 Committee.

19 SEC. 9. Section 4040 of the Welfare and Institutions Code is
20 amended to read:

21 4040. The State Department of ~~Mental Health Care Services~~
22 may conduct, or contract for, research or evaluation studies ~~which~~
23 *that* have application to *mental health* policy and management
24 issues. In selecting areas for study, the department shall be guided
25 by the information needs of state and local policymakers and
26 managers, and suggestions from the *Mental Health Services*
27 *Oversight and Accountability Commission established in Section*
28 *5845 and the California* ~~Conference of Local Mental Health~~
29 *Directors Association*.

30 SEC. 10. Section 4050 of the Welfare and Institutions Code is
31 amended to read:

32 4050. The State Department of ~~Mental Health Care Services~~
33 shall provide, to the extent resources are available, technical
34 assistance, through its own staff, or by contract, to county mental
35 health programs and other local mental health agencies in the areas
36 of program operations, research, evaluation, demonstration, or
37 quality assurance projects. *The State Department of Health Care*
38 *Services shall actively seek foundation support and federal grant*
39 *opportunities for these purposes, and may utilize other federal*
40 *financial participation when allowed by federal law.*

1 SEC. 11. Section 4051 of the Welfare and Institutions Code is
2 amended to read:

3 4051. The State Department of ~~Mental~~ *Health Care Services*
4 shall, to the extent resources are available, provide program
5 development guidelines, evaluation models, and operational
6 assistance on all aspects of services to mentally ill persons of all
7 ages. These services include, but are not limited to, the following:

- 8 (a) Self-help programs.
- 9 (b) Housing development.
- 10 (c) Disaster preparation.
- 11 (d) Vocational services.
- 12 (e) Regional programs.
- 13 (f) Multiple diagnosis programs.

14 SEC. 12. Section 4052 of the Welfare and Institutions Code is
15 amended to read:

16 4052. The State Department of ~~Mental~~ *Health Care Services*
17 shall, to the extent resources are available, provide training in
18 performance standards, model programs, cultural competency, and
19 program development.

20 SEC. 13. Section 4060 of the Welfare and Institutions Code is
21 amended to read:

22 4060. ~~The department~~ *State Department of Health Care*
23 *Services* shall, in order to implement Section 4050, utilize a joint
24 state-county decisionmaking process that shall include local mental
25 health directors and representatives of local mental health boards.
26 The purpose of this collaboration shall be to promote effective and
27 efficient quality mental health services to the residents of the state
28 under the realigned mental health system.

29 SEC. 14. Section 4061 of the Welfare and Institutions Code is
30 amended to read:

31 4061. (a) ~~The department~~ *State Department of Health Care*
32 *Services* shall utilize a joint state-county decisionmaking process
33 to determine the appropriate use of state and local training,
34 technical assistance, and regulatory resources to meet the mission
35 and goals of the state's mental health system. The department shall
36 use the decisionmaking collaborative process required by this
37 section in all of the following areas:

38 (1) Providing technical assistance to the State Department of
39 ~~Mental~~ *Health Care Services* and local mental health departments

1 through direction of existing state and local mental health staff
2 and other resources.

3 (2) Analyzing mental health programs, policies, and procedures.

4 (3) Providing forums on specific topics as they relate to the
5 following:

6 (A) Identifying current level of services.

7 (B) Evaluating existing needs and gaps in current services.

8 (C) Developing strategies for achieving statewide goals and
9 objectives in the provision of services for the specific area.

10 (D) Developing plans to accomplish the identified goals and
11 objectives.

12 (4) Providing forums on policy development and direction with
13 respect to mental health program operations and clinical issues.

14 (5) Identifying and funding a statewide training and technical
15 assistance entity jointly governed by local mental health directors
16 and mental health constituency representation, which can do all
17 of the following:

18 (A) Coordinate state and local resources to support training and
19 technical assistance to promote quality mental health programs.

20 (B) Coordinate training and technical assistance to ensure
21 efficient and effective program development.

22 (C) Provide essential training and technical assistance, as
23 determined by the state-county decisionmaking process.

24 (b) Local mental health board members shall be included in
25 discussions pursuant to Section 4060 when the following areas are
26 discussed:

27 (1) Training and education program recommendations.

28 (2) Establishment of statewide forums for all organizations and
29 individuals involved in mental health matters to meet and discuss
30 program and policy issues.

31 (3) Distribution of information between the state, local programs,
32 local mental health boards, and other organizations as appropriate.

33 (c) The State Department of ~~Mental Health~~ *Mental Health Care Services* and
34 local mental health departments may provide staff or other
35 resources, including travel reimbursement, for consultant and
36 advisory services; for the training of personnel, board members,
37 or consumers and families in state and local programs and in
38 educational institutions and field training centers approved by the
39 department; and for the establishment and maintenance of field
40 training centers.

1 SEC. 15. Section 4090 of the Welfare and Institutions Code is
2 amended to read:

3 4090. (a) The State Department of ~~Mental Health Care~~
4 *Services* shall establish, by regulation, standards for the programs
5 listed in Chapter 2.5 (commencing with Section 5670) of Part 2
6 of Division 5. These standards shall also be applied by the
7 department to any facility licensed as a social rehabilitation facility
8 pursuant to paragraph (7) of subdivision (a) of Section 1502 of the
9 Health and Safety Code.

10 (b) In establishing the standards required by this section, the
11 department shall not establish standards ~~which~~ *that* in themselves
12 impose any new or increased costs on the programs or facilities
13 affected by the standards.

14 SEC. 16. Section 4091 of the Welfare and Institutions Code is
15 amended to read:

16 4091. Nothing in Section 4090 limits the authority of the State
17 Department of ~~Mental Health Care Services~~ to delegate the
18 evaluation and enforcement of the program standards to a county
19 mental health program when a licensed social rehabilitation facility
20 has a contractual relationship with a county mental health program
21 and the county has requested the delegation.

22 SEC. 17. Section 4094 of the Welfare and Institutions Code is
23 amended to read:

24 4094. (a) The State Department of Mental Health shall
25 establish, by regulations adopted at the earliest possible date, but
26 no later than December 31, 1994, program standards for any facility
27 licensed as a community treatment facility. This section shall apply
28 only to community treatment facilities described in this subdivision.

29 (b) *Commencing July 1, 2012, the State Department of Health*
30 *Care Services may adopt or amend regulations pertaining to the*
31 *program standards for any facility licensed as a community*
32 *treatment facility.*

33 ~~(b)~~
34 (c) A certification of compliance issued by the State Department
35 of ~~Mental Health Care Services~~ shall be a condition of licensure
36 for the community treatment facility by the State Department of
37 Social Services. The department may, upon the request of a county,
38 delegate the certification and supervision of a community treatment
39 facility to the county department of mental health.

40 ~~(e)~~

(d) The State Department of ~~Mental Health~~ *Care Services* shall adopt regulations to include, but not be limited to, the following:

(1) Procedures by which the Director of ~~Mental Health Care Services~~ shall certify that a facility requesting licensure as a community treatment facility pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code is in compliance with program standards established pursuant to this section.

(2) Procedures by which the Director of ~~Mental Health Care Services~~ shall deny a certification to a facility or decertify a facility that is licensed as a community treatment facility pursuant to Chapter 3 (commencing with Section 1500) of Division 2 of the Health and Safety Code, but no longer complying with program standards established pursuant to this section, in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

(3) Provisions for site visits by the State Department of ~~Mental Health~~ *Care Services* for the purpose of reviewing a facility's compliance with program standards established pursuant to this section.

(4) Provisions for the community care licensing staff of the State Department of Social Services to report to the State Department of ~~Mental Health Care Services~~ when there is reasonable cause to believe that a community treatment facility is not in compliance with program standards established pursuant to this section.

(5) Provisions for the State Department of ~~Mental Health Care Services~~ to provide consultation and documentation to the State Department of Social Services in any administrative proceeding regarding denial, suspension, or revocation of a community treatment facility license.

~~(d)~~

(e) The standards adopted by regulations pursuant to ~~subdivision~~ *subdivisions (a) and (b)* shall include, but not be limited to, standards for treatment, staffing, and for the use of psychotropic medication, discipline, and restraints in the facilities. The standards shall also meet the requirements of Section 4094.5.

~~(e)~~

(f) (1) Until January 1, 2013, all of the following are applicable:

1 (A) A community treatment facility shall not be required by the
2 State Department of ~~Mental Health~~ *Care Services* to have 24-hour
3 onsite licensed nursing staff, but shall retain at least one full-time,
4 or full-time-equivalent, registered nurse onsite if both of the
5 following are applicable:

6 (i) The facility does not use mechanical restraint.

7 (ii) The facility only admits children who have been assessed,
8 at the point of admission, by a licensed primary care provider and
9 a licensed psychiatrist, who have concluded, with respect to each
10 child, that the child does not require medical services that require
11 24-hour nursing coverage. For purposes of this section, a “primary
12 care provider” includes a person defined in Section 14254, or a
13 nurse practitioner who has the responsibility for providing initial
14 and primary care to patients, for maintaining the continuity of care,
15 and for initiating referral for specialist care.

16 (B) Other medical or nursing staff shall be available on call to
17 provide appropriate services, when necessary, within one hour.

18 (C) All direct care staff shall be trained in first aid and
19 cardiopulmonary resuscitation, and in emergency intervention
20 techniques and methods approved by the Community Care
21 Licensing Division of the State Department of Social Services.

22 (2) The State Department of Mental Health may adopt
23 emergency regulations as necessary to implement this subdivision.
24 The adoption of these regulations shall be deemed to be an
25 emergency and necessary for the immediate preservation of the
26 public peace, health and safety, and general welfare. The
27 regulations shall be exempt from review by the Office of
28 Administrative Law and shall become effective immediately upon
29 filing with the Secretary of State. The regulations shall not remain
30 in effect more than 180 days unless the adopting agency complies
31 with all the provisions of Chapter 3.5 (commencing with Section
32 11340) of Part 1 of Division 3 of Title 2 of the Government Code,
33 as required by subdivision (e) of Section 11346.1 of the
34 Government Code.

35 (f)

36 (g) During the initial public comment period for the adoption
37 of the regulations required by this section, the community care
38 facility licensing regulations proposed by the State Department of
39 Social Services and the program standards proposed by the State
40 Department of Mental Health shall be presented simultaneously.

1 ~~(g)~~

2 (h) A minor shall be admitted to a community treatment facility
3 only if the requirements of Section 4094.5 and either of the
4 following conditions are met:

5 (1) The minor is within the jurisdiction of the juvenile court,
6 and has made voluntary application for mental health services
7 pursuant to Section 6552.

8 (2) Informed consent is given by a parent, guardian, conservator,
9 or other person having custody of the minor.

10 ~~(h)~~

11 (i) Any minor admitted to a community treatment facility shall
12 have the same due process rights afforded to a minor who may be
13 admitted to a state hospital, pursuant to the holding in *In re Roger*
14 *S.* (1977) 19 Cal.3d 921. Minors who are wards or dependents of
15 the court and to whom this subdivision applies shall be afforded
16 due process in accordance with Section 6552 and related case law,
17 including *In re Michael E.* (1975) 15 Cal.3d 183. Regulations
18 adopted pursuant to ~~Section 4094~~ *this section* shall specify the
19 procedures for ensuring these rights, including provisions for
20 notification of rights and the time and place of hearings.

21 ~~(i)~~

22 (j) Notwithstanding Section 13340 of the Government Code,
23 the sum of forty-five thousand dollars (\$45,000) is hereby
24 appropriated annually from the General Fund to the State
25 Department of Mental Health for one personnel year to carry out
26 the provisions of this section.

27 SEC. 18. Section 5370.2 of the Welfare and Institutions Code
28 is amended to read:

29 5370.2. (a) ~~Beginning January 1, 1996, the~~ *The State*
30 ~~Department of Mental Health~~ *State Hospitals and the State*
31 *Department of Health Care Services* shall have a single
32 *comprehensive* contract with a single nonprofit agency that meets
33 the criteria specified in subdivision (b) of Section 5510 to conduct
34 the following activities:

35 (1) Provide patients' rights advocacy services for, and conduct
36 investigations of alleged or suspected abuse and neglect of,
37 including deaths of, persons with mental disabilities residing in
38 state hospitals.

39 (2) Investigate and take action as appropriate and necessary to
40 resolve complaints from or concerning recipients of mental health

1 services residing in licensed health or community care facilities
2 regarding abuse, and unreasonable denial, or punitive withholding
3 of rights guaranteed under this division that cannot be resolved by
4 county patients' rights advocates.

5 (3) Provide consultation, technical assistance, and support to
6 county patients' rights advocates in accordance with their duties
7 under Section 5520.

8 (4) Conduct program review of patients' rights programs.

9 (b) The services shall be provided in coordination with the
10 appropriate mental health patients' rights advocates.

11 (c) (1) The contractor shall develop a plan to provide patients'
12 rights advocacy services for, and conduct investigations of alleged
13 or suspected abuse and neglect of, including the deaths of, persons
14 with mental disabilities residing in state hospitals.

15 (2) The contractor shall develop the plan in consultation with
16 the statewide organization of mental health patients' rights
17 advocates, the statewide organization of mental health clients, and
18 the statewide organization of family members of persons with
19 mental disabilities, and the statewide organization of county mental
20 health directors.

21 (3) In order to ensure that persons with mental disabilities have
22 access to high quality advocacy services, the contractor shall
23 establish a grievance procedure and shall advise persons receiving
24 services under the contract of the availability of other advocacy
25 services, including services provided by the protection and
26 advocacy agency specified in Section 4901 and the county patients'
27 rights advocates specified in Section 5520.

28 (d) Nothing contained in this section shall be construed to restrict
29 or limit the authority of the department to conduct the reviews and
30 investigations it deems necessary for personnel, criminal, and
31 litigation purposes.

32 (e) The State Department of ~~Mental Health~~ *State Hospitals and*
33 *the State Department of Health Care Services* shall have a single
34 *comprehensive* contract on a multiyear basis for a contract term
35 of up to five years.

36 SEC. 19. Section 5510 of the Welfare and Institutions Code is
37 amended to read:

38 5510. (a) The Legislature finds and declares as follows:

39 (1) The State of California accepts its responsibility to ensure
40 and uphold the right of persons with mental disabilities and an

1 obligation, to be executed by the State Department of ~~Mental~~
2 *Health Care Services and the State Department of State Hospitals*,
3 to ensure that mental health laws, regulations and policies on the
4 rights of recipients of mental health services are observed and
5 protected in state hospitals and in licensed health and community
6 care facilities.

7 (2) Persons with mental disabilities are vulnerable to abuse,
8 neglect, and unreasonable and unlawful deprivations of their rights.

9 (3) Patients' rights advocacy and investigative services
10 concerning patient abuse and neglect ~~currently~~ *formerly* provided
11 by the State Department of Mental Health, including the
12 department's Office of Human Rights and investigator, and state
13 hospital patients' rights advocates and state hospital investigators
14 may have *had* conflicts of interest or the appearance of a conflict
15 of interest.

16 (4) The services provided to patients and their families is of
17 such a special and unique nature that they must be contracted out
18 pursuant to paragraph (3) of subdivision (b) of Section 19130 of
19 the Government Code.

20 (b) Therefore, to avoid the potential for a conflict of interest or
21 the appearance of a conflict of interest, it is the intent of the
22 Legislature that the patients' rights advocacy and investigative
23 services described in this article be provided by a single contractor
24 specified in Section 5370.2 that meets both of the following
25 criteria:

26 (1) The contractor can demonstrate the capability to provide
27 statewide advocacy services for persons with mental disabilities.

28 (2) The contractor has no direct or indirect responsibility for
29 providing services to persons with mental disabilities, except
30 advocacy services.

31 (c) For the purposes of this article, the Legislature further finds
32 and declares, because of a potential conflict of interest or the
33 appearance of a conflict of interest, that the goals and purposes of
34 the state patients' rights advocacy and investigative services cannot
35 be accomplished through the utilization of persons selected
36 pursuant to the regular state civil service system. Accordingly, the
37 contracts into which the ~~department enters~~ *departments enter*
38 pursuant to this section are permitted and authorized by paragraphs
39 (3) and (5) of subdivision (b) of Section 19130 of the Government
40 Code. The State Department of ~~Mental~~ *Health Care Services and*

1 *the State Department of State Hospitals* shall have a single
2 *comprehensive* contract with a single nonprofit entity to provide
3 for the protection and advocacy services to persons with mental
4 disabilities. The entity shall be responsible for ensuring that mental
5 health laws, regulations, and policies on the rights of recipients of
6 mental health services are observed in state hospitals and in
7 licensed health and community care facilities.

8 (d) The findings and declarations of potential conflict of interest
9 provided in this section shall not apply to advocacy services
10 provided under Article 3 (commencing with Section 5520).

11 SEC. 20. Section 5513 of the Welfare and Institutions Code is
12 amended to read:

13 5513. The Patients' Rights Office shall serve as a liaison
14 between county patients' rights advocates and the State Department
15 of ~~Mental Health~~ *Care Services*.

16 SEC. 21. Section 5514 of the Welfare and Institutions Code is
17 amended to read:

18 5514. There shall be a five-person Patients' Rights
19 Subcommittee of the California Council on Mental Health. This
20 subcommittee, supplemented by two ad hoc members appointed
21 by the chairperson of the subcommittee, shall advise the Director
22 of ~~Mental Health~~ *Care Services and the Director of State Hospitals*
23 regarding department policies and practices that affect patients'
24 rights. The subcommittee shall also review the advocacy and
25 patients' rights components of each county ~~Short-Doyle~~ plan and
26 advise the Director of ~~Mental Health~~ *Care Services and the*
27 *Director of State Hospitals* concerning the adequacy of each plan
28 in protecting patients' rights. The ad hoc members of the
29 subcommittee shall be persons with substantial experience in
30 establishing and providing independent advocacy services to
31 recipients of mental health services.

32 SEC. 22. Section 5530 of the Welfare and Institutions Code is
33 amended to read:

34 5530. (a) County patients' rights advocates shall have access
35 to all clients and other recipients of mental health services in any
36 mental health facility, program, or service at all times as are
37 necessary to investigate or resolve specific complaints and in
38 accord with subdivision (b) of Section 5523. County patients'
39 rights advocates shall have access to mental health facilities,
40 programs, and services, and recipients of services therein during

1 normal working hours and visiting hours for other advocacy
2 purposes. Advocates may appeal any denial of access directly to
3 the head of any facility, the director of a county mental health
4 program or the State Department of ~~Mental Health Care Services~~
5 or may seek appropriate relief in the courts. If a petition to a court
6 sets forth prima facie evidence for relief, a hearing on the merits
7 of the petition shall be held within two judicial days of the filing
8 of the petition. The superior court for the county in which the
9 facility is located shall have jurisdiction to review petitions filed
10 pursuant to this chapter.

11 (b) County patients' rights advocates shall have the right to
12 interview all persons providing the client with diagnostic or
13 treatment services.

14 (c) Upon request, all mental health facilities shall, when
15 available, provide reasonable space for county patients' rights
16 advocates to interview clients in privacy and shall make appropriate
17 staff persons available for interview with the advocates in
18 connection with pending matters.

19 (d) Individual patients shall have a right to privacy which shall
20 include the right to terminate any visit by persons who have access
21 pursuant to this chapter and the right to refuse to see any patient
22 advocate.

23 (e) Notice of the availability of advocacy services and
24 information about patients' rights may be provided by county
25 patients' rights advocates by means of distribution of educational
26 materials and discussions in groups and with individual patients.

27 SEC. 23. Section 5585.22 of the Welfare and Institutions Code
28 is amended to read:

29 5585.22. The Director of ~~Mental Health Care Services~~, in
30 consultation with the California ~~Conference of Local Mental Health~~
31 *Directors Association*, may develop the appropriate educational
32 materials and a training curriculum, and may provide training as
33 necessary to assure those persons providing services pursuant to
34 this part fully understand its purpose.

35 SEC. 24. Section 5601 of the Welfare and Institutions Code is
36 amended to read:

37 5601. As used in this part:

38 (a) "Governing body" means the county board of supervisors
39 or boards of supervisors in the case of counties acting jointly; and
40 in the case of a city, the city council or city councils acting jointly.

1 (b) “Conference” means the California ~~Conference of Local~~
2 Mental Health Directors ~~as established under Section 5757~~
3 *Association*.

4 (c) Unless the context requires otherwise, “to the extent
5 resources are available” means to the extent that funds deposited
6 in the mental health account of the local health and welfare fund
7 are available to an entity qualified to use those funds.

8 (d) “Part 1” refers to the Lanterman-Petris-Short Act (Part 1
9 commencing with Section 5000)).

10 (e) “Director of ~~Mental Health Care Services~~” or “director”
11 means the Director of the State Department of ~~Mental Health Care~~
12 *Services*.

13 (f) “Institution” includes a general acute care hospital, a state
14 hospital, a psychiatric hospital, a psychiatric health facility, a
15 skilled nursing facility, including an institution for mental disease
16 as described in Chapter 1 (commencing with Section 5900) of Part
17 5, an intermediate care facility, a community care facility or other
18 residential treatment facility, or a juvenile or criminal justice
19 institution.

20 (g) “Mental health service” means any service directed toward
21 early intervention in, or alleviation or prevention of, mental
22 disorder, including, but not limited to, diagnosis, evaluation,
23 treatment, personal care, day care, respite care, special living
24 arrangements, community skill training, sheltered employment,
25 socialization, case management, transportation, information,
26 referral, consultation, and community services.

27 SEC. 25. Section 5602 of the Welfare and Institutions Code is
28 amended to read:

29 5602. The board of supervisors of every county, or the boards
30 of supervisors of counties acting under the joint powers provisions
31 of Article 1 (commencing with Section 6500) of Chapter 5 of
32 Division 7 of Title 1 of the Government Code shall establish a
33 community mental health service to cover the entire area of the
34 county or counties. Services of the State Department of ~~Mental~~
35 *Health Care Services* shall be provided to the county, or counties
36 acting jointly, or, if both parties agree, the state facilities may, in
37 whole or in part, be leased, rented or sold to the county or counties
38 for county operation, subject to terms and conditions approved by
39 the Director of General Services.

1 SEC. 26. Section 5604 of the Welfare and Institutions Code is
2 amended to read:

3 5604. (a) (1) Each community mental health service shall
4 have a mental health board consisting of 10 to 15 members,
5 depending on the preference of the county, appointed by the
6 governing body, except that boards in counties with a population
7 of less than 80,000 may have a minimum of five members. One
8 member of the board shall be a member of the local governing
9 body. Any county with more than five supervisors shall have at
10 least the same number of members as the size of its board of
11 supervisors. Nothing in this section shall be construed to limit the
12 ability of the governing body to increase the number of members
13 above 15. Local mental health boards may recommend appointees
14 to the county supervisors. Counties are encouraged to appoint
15 individuals who have experience and knowledge of the mental
16 health system. The board membership should reflect the ethnic
17 diversity of the client population in the county.

18 (2) Fifty percent of the board membership shall be consumers
19 or the parents, spouses, siblings, or adult children of consumers,
20 who are receiving or have received mental health services. At least
21 20 percent of the total membership shall be consumers, and at least
22 20 percent shall be families of consumers.

23 (3) (A) In counties under 80,000 population, at least one
24 member shall be a consumer, and at least one member shall be a
25 parent, spouse, sibling, or adult child of a consumer, who is
26 receiving, or has received, mental health services.

27 (B) Notwithstanding subparagraph (A), a board in a county with
28 a population under 80,000 that elects to have the board exceed the
29 five-member minimum permitted under paragraph (1) shall be
30 required to comply with paragraph (2).

31 (b) The term of each member of the board shall be for three
32 years. The governing body shall equitably stagger the appointments
33 so that approximately one-third of the appointments expire in each
34 year.

35 (c) If two or more local agencies jointly establish a community
36 mental health service under Article 1 (commencing with Section
37 6500) of Chapter 5 of Division 7 of Title 1 of the Government
38 Code, the mental health board for the community mental health
39 service shall consist of an additional two members for each
40 additional agency, one of whom shall be a consumer or a parent,

1 spouse, sibling, or adult child of a consumer who has received
2 mental health services.

3 (d) No member of the board or his or her spouse shall be a
4 full-time or part-time county employee of a county mental health
5 service, an employee of the State Department of ~~Mental Health~~
6 *Care Services*, or an employee of, or a paid member of the
7 governing body of, a mental health contract agency.

8 (e) Members of the board shall abstain from voting on any issue
9 in which the member has a financial interest as ~~defined~~ *specified*
10 in Section 87103 of the Government Code.

11 (f) If it is not possible to secure membership as specified from
12 among persons who reside in the county, the governing body may
13 substitute representatives of the public interest in mental health
14 who are not full-time or part-time employees of the county mental
15 health service, the State Department of ~~Mental Health~~ *Care*
16 *Services*, or on the staff of, or a paid member of the governing
17 body of, a mental health contract agency.

18 (g) The mental health board may be established as an advisory
19 board or a commission, depending on the preference of the county.

20 SEC. 27. Section 5610 of the Welfare and Institutions Code is
21 amended to read:

22 5610. (a) Each county mental health system shall comply with
23 reporting requirements developed by the State Department of
24 ~~Mental Health~~ *which Care Services* that shall be uniform and
25 simplified. The department shall review existing data requirements
26 to eliminate unnecessary requirements and consolidate
27 requirements which are necessary. These requirements shall
28 provide comparability between counties in reports.

29 (b) The department shall develop, in consultation with the
30 Performance Outcome Committee pursuant to Section 5611, and
31 with the *California Health and Welfare Human Services* Agency,
32 uniform definitions and formats for a statewide, nonduplicative
33 client-based information system that includes all information
34 necessary to meet federal mental health grant requirements and
35 state and federal medicaid reporting requirements, as well as any
36 other state requirements established by law. The data system,
37 including performance outcome measures reported pursuant to
38 Section 5613, shall be developed by July 1, 1992.

39 (c) Unless determined necessary by the department to comply
40 with federal law and regulations, the data system developed

1 pursuant to subdivision (b) shall not be more costly than that in
2 place during the 1990–91 fiscal year.

3 (d) (1) The department shall develop unique client identifiers
4 that permit development of client-specific cost and outcome
5 measures and related research and analysis.

6 (2) The department's collection and use of client information,
7 and the development and use of client identifiers, shall be
8 consistent with clients' constitutional and statutory rights to privacy
9 and confidentiality.

10 (3) Data reported to the department may include name and other
11 personal identifiers. That information is confidential and subject
12 to Section 5328 and any other state and federal laws regarding
13 confidential client information.

14 (4) Personal client identifiers reported to the department shall
15 be protected to ensure confidentiality during transmission and
16 storage through encryption and other appropriate means.

17 (5) Information reported to the department may be shared with
18 local public mental health agencies submitting records for the same
19 person and that information is subject to Section 5328.

20 (e) All client information reported to the department pursuant
21 to Chapter 2 (commencing with Section 4030) of Part 1 of Division
22 4 and Sections 5328 to 5780, inclusive, and any other state and
23 federal laws regarding reporting requirements, consistent with
24 Section 5328, shall not be used for purposes other than those
25 purposes expressly stated in the reporting requirements referred
26 to in this subdivision.

27 (f) The department may adopt emergency regulations to
28 implement this section in accordance with the Administrative
29 Procedure Act, Chapter 3.5 (commencing with Section 11340) of
30 Part 1 of Division 3 of Title 2 of the Government Code. The
31 adoption of emergency regulations to implement this section that
32 are filed with the Office of Administrative Law within one year
33 of the date on which the act that added this subdivision took effect
34 shall be deemed to be an emergency and necessary for the
35 immediate preservation of the public peace, health and safety, or
36 general welfare and shall remain in effect for no more than 180
37 days.

38 SEC. 28. Section 5652.7 of the Welfare and Institutions Code
39 is amended to read:

1 5652.7. A county shall have only 60 days from the date of
2 submission of an application to review and certify or deny an
3 application to establish a new mental health care provider. If an
4 application requires review by the State Department of Health
5 *Care Services*, the department shall also have only 60 days from
6 the date of submission of the application to review and certify or
7 deny an application to establish a new mental health care provider.

8 SEC. 29. Section 5653 of the Welfare and Institutions Code is
9 amended to read:

10 5653. ~~In developing the county Short-Doyle plan,~~
11 ~~optimum~~*Optimum* use shall be made of appropriate local public
12 and private organizations, community professional personnel, and
13 state agencies. Optimum use shall also be made of federal, state,
14 county, and private funds which may be available for mental health
15 planning.

16 In order that maximum utilization be made of federal and other
17 funds made available to the Department of Rehabilitation, the
18 Department of Rehabilitation may serve as a contractual provider
19 under the provisions of a county ~~Short-Doyle~~ plan of vocational
20 rehabilitation services for the mentally disordered.

21 SEC. 30. Section 5653.1 of the Welfare and Institutions Code
22 is amended to read:

23 5653.1. ~~In conducting evaluation, planning, and research~~
24 ~~activities to develop and implement the county Short-Doyle plan,~~
25 ~~counties~~ *Counties* may contract with public or private agencies.

26 SEC. 31. Section 5654 of the Welfare and Institutions Code is
27 amended to read:

28 5654. In order to serve the increasing needs of children and
29 adolescents with mental and emotional problems, county mental
30 health programs may use funds ~~allocated under the Short-Doyle~~
31 ~~Act~~ for the purposes of consultation and training.

32 SEC. 32. Section 5655 of the Welfare and Institutions Code is
33 amended to read:

34 5655. All departments of state government and all local public
35 agencies shall cooperate with county officials to assist them in
36 mental health planning. The State Department of ~~Mental Health~~
37 *Care Services* shall, upon request and with available staff, provide
38 consultation services to the local mental health directors, local
39 governing bodies, and local mental health advisory boards.

1 If the Director of ~~Mental Health Care Services~~ considers any
2 county to be failing, in a substantial manner, to comply with any
3 provision of this code or any regulation, ~~or with the approved~~
4 ~~county Short-Doyle plan~~, the director shall order the county to
5 appear at a hearing, before the director or the director's designee,
6 to show cause why the department should not take action as set
7 forth in this section. The county shall be given at least 20 days'
8 notice of such hearing. The director shall consider the case on the
9 record established at the hearing and make final findings and
10 decision.

11 If the director determines that there is or has been a failure, in a
12 substantial manner, on the part of the county to comply with any
13 provision of this code or any regulations ~~or the approved county~~
14 ~~Short-Doyle plan~~, and that administrative sanctions are necessary,
15 the department may invoke any, or any combination of, the
16 following sanctions:

17 (a) Withhold part or all of state mental health funds from such
18 county.

19 (b) Require the county to enter into negotiations for the purpose
20 ~~of assuring~~ *ensuring* county ~~Short-Doyle plan~~ compliance with
21 ~~such~~ *these* laws and regulations.

22 (c) Bring an action in mandamus or ~~such~~ other action in court
23 as may be appropriate to compel compliance. Any such action
24 shall be entitled to a preference in setting a date for a hearing.

25 SEC. 33. Section 5664 of the Welfare and Institutions Code is
26 amended to read:

27 5664. (a) County mental health systems shall provide reports
28 and data to meet the information needs of the state.

29 (b) ~~The department~~ *State Department of Health Care Services*
30 shall not implement this section in a manner requiring a higher
31 level of service for state reporting needs than that which it was
32 authorized to require prior to July 1, 1991.

33 SEC. 34. Section 5664.5 of the Welfare and Institutions Code
34 is amended to read:

35 5664.5. (a) County mental health systems shall continue to
36 provide data required by the State Department of ~~Mental Health~~
37 *Care Services* to establish uniform definitions and time increments
38 for reporting type and cost of services received by local mental
39 health program clients.

(b) This section shall remain in effect only until January 1, 1994, and as of that date is repealed, unless a later enacted statute, which becomes effective on or before January 1, 1994, deletes or extends the dates on which it is repealed; or until the date upon which the director informs the Legislature that the new data system is established pursuant to Section 5610, whichever is later, unless the provisions of the section are required by the federal government as a condition of funding for the Short-Doyle Medi-Cal program.

SEC. 35. Section 5692 of the Welfare and Institutions Code is amended to read:

5692. The State Department of ~~Mental Health~~ *Care Services* shall, to the extent resources are available, have responsibility for the provision of technical assistance, maximizing federal revenue, and ensuring coordination with other state agencies including implementing and coordinating interagency agreements between the Department of Rehabilitation and the State Department of ~~Mental Health~~ *Care Services*.

SEC. 36. Section 5701 of the Welfare and Institutions Code is amended to read:

5701. (a) To achieve equity of funding, available funding for local mental health programs beyond the funding provided pursuant to Section 17601 shall be distributed to cities, counties, and cities and counties pursuant to the procedures described in subdivision (c) of Section 17606.05.

(b) Funding provided pursuant to Section 6 of Article XIII B of the California Constitution, funding provided pursuant to subdivision (c), and funding provided for future pilot projects shall be exempt from the requirements of subdivision (a).

(c) Effective in the 1994–95 fiscal year and each year thereafter:

(1) The State Department of ~~Mental Health~~ *Care Services* shall annually identify from mental health block grant funds provided by the federal government, the maximum amount that federal law and regulation permit to be allocated to counties and cities and counties pursuant to this subdivision. This section shall apply to any federal mental health block grant funds in excess of the following:

(A) The amount allocated to counties and cities and counties from the alcohol, drug abuse, and mental health block grant in the 1991–92 fiscal year.

(B) Funds for departmental support.

1 (C) Amounts awarded to counties and cities and counties for
2 children's systems of care programs pursuant to Part 4
3 (commencing with Section 5850).

4 (D) Amounts allocated to small counties for the development
5 of alternatives to state hospitalization in the 1993–94 fiscal year.

6 (E) Amounts appropriated by the Legislature for the purposes
7 of this part.

8 (2) Notwithstanding subdivision (a), annually the State
9 Department of ~~Mental~~ *Health Care Services* shall allocate to
10 counties and cities and counties the funds identified in paragraph
11 (1), not to exceed forty million dollars (\$40,000,000) in any year.
12 The allocations shall be proportional to each county's and each
13 city and county's percentage of the forty million dollars
14 (\$40,000,000) in Cigarette and Tobacco Products Surtax funds
15 that were allocated to local mental health programs in the 1991–92
16 fiscal year.

17 (3) Monthly, the Controller shall allocate funds from the Vehicle
18 License Collection Account of the Local Revenue Fund to counties
19 and cities and counties for mental health services. Allocations shall
20 be made to each county or city and county in the same percentages
21 as described in paragraph (2), until the total of the funds allocated
22 to all counties in each year pursuant to paragraph (2) and this
23 paragraph reaches forty million dollars (\$40,000,000).

24 (4) Funds allocated to counties and cities and counties pursuant
25 to paragraphs (2) and (3) shall not be subject to Section 17606.05.

26 (5) Funds that are available for allocation in any year in excess
27 of the forty million dollar (\$40,000,000) limits described in
28 paragraph (2) or (3) shall be deposited into the Mental Health
29 Subaccount of the Local Revenue Fund.

30 (6) Nothing in this section is intended to, nor shall it, change
31 the base allocation of any city, county, or city and county as
32 provided in Section 17601.

33 SEC. 37. Section 5701.1 of the Welfare and Institutions Code
34 is amended to read:

35 5701.1. Notwithstanding Section 5701, the State Department
36 of ~~Mental~~ *Health Care Services*, in consultation with the California
37 Mental Health Directors Association, may utilize funding from
38 the Substance Abuse and Mental Health Services Administration
39 Block Grant, awarded to the State Department of ~~Mental~~ *Health*
40 *Care Services*, above the funding level provided in federal fiscal

1 year 1998, for the development of innovative programs for
2 identified target populations, upon appropriation by the Legislature.

3 SEC. 38. Section 5707 of the Welfare and Institutions Code is
4 amended to read:

5 5707. Funds appropriated to the ~~department which~~ *State*
6 *Department of Health Care Services* that are designated for local
7 mental health services and funds ~~which that the department~~ *State*
8 *Department of Health Care Services* is responsible for allocating
9 or administering, including, but not limited to, federal block grants
10 funds, shall be expended in accordance with this section and
11 Sections 5708 to 5717, inclusive, except when there are conflicting
12 federal requirements, in which case the federal requirements shall
13 be controlling.

14 SEC. 39. Section 5715 of the Welfare and Institutions Code is
15 amended to read:

16 5715. Subject to the approval of the ~~department~~ *State*
17 *Department of Health Care Services*, at the end of the fiscal year,
18 a county may retain unexpended funds allocated to it by the
19 department from funds appropriated to the department, with the
20 exception of block grant funds, exclusive of the amount required
21 to pay for the care of patients in state hospitals, for 12 months for
22 expenditure for mental health services in accordance with this part.

23 SEC. 40. Section 5717 of the Welfare and Institutions Code is
24 amended to read:

25 5717. (a) Expenditures that may be funded from amounts
26 allocated to the county by the ~~department~~ *State Department of*
27 *Health Care Services* from funds appropriated to the department
28 shall include ~~negotiated rates and net amounts~~; salaries of
29 personnel; approved facilities and services provided through
30 contract; operation, maintenance and service costs including
31 insurance costs or departmental charges for participation in a
32 county self-insurance program if the charges are not in excess of
33 comparable available commercial insurance premiums and on the
34 condition that any surplus reserves be used to reduce future year
35 contributions; depreciation of county facilities as established in
36 the state's uniform accounting manual, disregarding depreciation
37 on the facility to the extent it was financed by state funds under
38 this part; lease of facilities where there is no intention to, nor option
39 to, purchase; expenses incurred under this act by members of the
40 California ~~Conference of Local~~ Mental Health Directors

1 *Association* for attendance at regular meetings of these conferences;
2 expenses incurred by either the chairperson or elected
3 representative of the local mental health advisory boards for
4 attendance at regular meetings of the Organization of Mental Health
5 Advisory Boards; expenditures included in approved countywide
6 cost allocation plans submitted in accordance with the Controller's
7 guidelines, including, but not limited to, adjustments of prior year
8 estimated general county overhead to actual costs, but excluding
9 allowable costs otherwise compensated by state funding; net costs
10 of conservatorship investigation, approved by the Director of
11 ~~Mental Health Care Services~~. Except for expenditures made
12 pursuant to Article 6 (commencing with Section 129225) of
13 Chapter 1 of Part 6 of Division 107 of the Health and Safety Code,
14 it shall not include expenditures for initial capital improvements;
15 the purchaser or construction of buildings except for equipment
16 items and remodeling expense as may be provided for in
17 regulations of the State Department of ~~Mental Health Care~~
18 *Services*; compensation to members of a local mental health
19 advisory board, except actual and necessary expenses incurred in
20 the performance of official duties that may include travel, lodging,
21 and meals while on official business; or expenditures for a purpose
22 for which state reimbursement is claimed under any other provision
23 of law.

24 (b) ~~The director~~ *Director of Health Care Services* may make
25 investigations and audits of expenditures the director may deem
26 necessary.

27 (c) With respect to funds allocated to a county by the ~~department~~
28 *State Department of Health Care Services* from funds appropriated
29 to the department, the county shall repay to the state amounts found
30 not to have been expended in accordance with the requirements
31 set forth in this part. Repayment shall be within 30 days after it is
32 determined that an expenditure has been made that is not in
33 accordance with the requirements. In the event that repayment is
34 not made in a timely manner, the department shall offset any
35 amount improperly expended against the amount of any current
36 or future advance payment or cost report settlement from the state
37 for mental health services. Repayment provisions shall not apply
38 to Short-Doyle funds allocated by the department for fiscal years
39 up to and including the 1990–91 fiscal year.

1 SEC. 41. Section 5751 of the Welfare and Institutions Code is
2 amended to read:

3 5751. (a) Regulations pertaining to the qualifications of
4 directors of local mental health services shall be administered in
5 accordance with Section 5607. These standards may include the
6 maintenance of records of service which shall be reported to the
7 State Department of ~~Mental~~ *Health Care Services* in a manner and
8 at times as it may specify.

9 (b) Regulations pertaining to the position of director of local
10 mental health services, where the local director is other than the
11 local health officer or medical administrator of the county hospitals,
12 shall require that the director be a psychiatrist, psychologist,
13 clinical social worker, marriage and family therapist, professional
14 clinical counselor, registered nurse, or hospital administrator, who
15 meets standards of education and experience established by the
16 Director of ~~Mental~~ *Health Care Services*. Where the director is
17 not a psychiatrist, the program shall have a psychiatrist licensed
18 to practice medicine in this state and who shall provide to patients
19 medical care and services as authorized by Section 2051 of the
20 Business and Professions Code.

21 (c) The regulations shall be adopted in accordance with the
22 Administrative Procedure Act (Chapter 3.5 (commencing with
23 Section 11340) of Part 1 of Division 3 of Title 2 of the Government
24 Code).

25 SEC. 42. Section 5751.1 of the Welfare and Institutions Code
26 is amended to read:

27 5751.1. Regulations pertaining to the position of director of
28 local mental health services, where the local director is other than
29 the local health officer or medical administrator of the county
30 hospitals, shall require that the director meet the standards of
31 education and experience established by the Director of ~~Mental~~
32 *Health Care Services* and that the appointment be open on the
33 basis of competence to all eligible disciplines pursuant to Section
34 5751. Regulations pertaining to the qualifications of directors of
35 local mental health services shall be administered in accordance
36 with Section 5607.

37 Where the director of local mental health services is not a
38 psychiatrist, the program shall have a psychiatrist licensed to
39 practice medicine in this state and who shall provide to patients

1 medical care and services as authorized by Section ~~2137~~ 2051 of
2 the Business and Professions Code.

3 SEC. 43. Section 5751.2 of the Welfare and Institutions Code
4 is amended to read:

5 5751.2. (a) Except as provided in this section, persons
6 employed or under contract to provide mental health services
7 pursuant to this part shall be subject to all applicable requirements
8 of law regarding professional licensure, and no person shall be
9 employed in local mental health programs pursuant to this part to
10 provide services for which a license is required, unless the person
11 possesses a valid license.

12 (b) Persons employed as psychologists and clinical social
13 workers, while continuing in their employment in the same class
14 as of January 1, 1979, in the same program or facility, including
15 those persons on authorized leave, but not including intermittent
16 personnel, shall be exempt from the requirements of subdivision
17 (a).

18 (c) While registered with the licensing board of jurisdiction for
19 the purpose of acquiring the experience required for licensure,
20 persons employed or under contract to provide mental health
21 services pursuant to this part as clinical social workers, marriage
22 and family therapists, or professional clinical counselors shall be
23 exempt from subdivision (a). Registration shall be subject to
24 regulations adopted by the appropriate licensing board.

25 (d) The requirements of subdivision (a) shall be waived by the
26 ~~department~~ *State Department of Health Care Services* for persons
27 employed or under contract to provide mental health services
28 pursuant to this part as psychologists who are gaining the
29 experience required for licensure. A waiver granted under this
30 subdivision may not exceed five years from the date of employment
31 by, or contract with, a local mental health program for persons in
32 the profession of psychology.

33 (e) The requirements of subdivision (a) shall be waived by the
34 ~~department~~ *State Department of Health Care Services* for persons
35 who have been recruited for employment from outside this state
36 as psychologists, clinical social workers, marriage and family
37 therapists, or professional clinical counselors and whose experience
38 is sufficient to gain admission to a licensing examination. A waiver
39 granted under this subdivision may not exceed three years from
40 the date of employment by, or contract with, a local mental health

1 program for persons in these four professions who are recruited
2 from outside this state.

3 SEC. 44. Section 5770 of the Welfare and Institutions Code is
4 amended to read:

5 5770. Notwithstanding any other provision of law, the
6 ~~department~~ *State Department of Health Care Services* may directly,
7 or by contract, with any public or private agency, provide any of
8 the services under this division when the ~~director~~ *state* determines
9 that the services are necessary to protect the public health, safety,
10 or welfare.

11 SEC. 45. Section 5770.5 of the Welfare and Institutions Code
12 is amended to read:

13 5770.5. The ~~department~~ *State Department of Health Care*
14 *Services* shall encourage county mental health programs to develop
15 and support local programs designed to provide technical assistance
16 to self-help groups for the purposes of maintaining existing groups,
17 as well as to stimulate development of new self-help groups from
18 locally defined needs.

19 SEC. 46. Section 5771 of the Welfare and Institutions Code is
20 amended to read:

21 5771. (a) Pursuant to Public Law 102-321, there is the
22 California Mental Health Planning Council. The purpose of the
23 planning council shall be to fulfill those mental health planning
24 requirements mandated by federal law.

25 (b) (1) The planning council shall have 40 members, to be
26 comprised of members appointed from both the local and state
27 levels in order to ensure a balance of state and local concerns
28 relative to planning.

29 (2) As required by federal law, eight members of the planning
30 council shall represent various state departments.

31 (3) Members of the planning council shall be appointed in a
32 manner that will ensure that at least one-half are persons with
33 mental disabilities, family members of persons with mental
34 disabilities, and representatives of organizations advocating on
35 behalf of persons with mental disabilities. Persons with mental
36 disabilities and family members shall be represented in equal
37 numbers.

38 (4) The Director of ~~Mental~~ *Health Care Services* shall make
39 appointments from among nominees from various mental health
40 constituency organizations, which shall include representatives of

1 consumer-related advocacy organizations, representatives of mental
2 health professional and provider organizations, and representatives
3 who are direct service providers from both the public and private
4 sectors. The director shall also appoint one representative of the
5 California Coalition on Mental Health.

6 (c) Members should be balanced according to demography,
7 geography, gender, and ethnicity. Members should include
8 representatives with interest in all target populations, including,
9 but not limited to, children and youth, adults, and older adults.

10 (d) The planning council shall annually elect a chairperson and
11 a chair-elect.

12 (e) The term of each member shall be three years, to be
13 staggered so that approximately one-third of the appointments
14 expire in each year.

15 (f) In the event of changes in the federal requirements regarding
16 the structure and function of the planning council, or the
17 discontinuation of federal funding, the State Department of ~~Mental~~
18 Health *Care Services* shall propose to the Legislature modifications
19 in the structure of the planning council that the department deems
20 appropriate.

21 SEC. 47. Section 5771.3 of the Welfare and Institutions Code
22 is amended to read:

23 5771.3. The California Mental Health Planning Council may
24 utilize staff of the State Department of ~~Mental~~ Health *Care*
25 *Services*, to the extent they are available, and the staff of any other
26 public or private agencies that have an interest in the mental health
27 of the public and that are able and willing to provide those services.

28 SEC. 48. Section 5772 of the Welfare and Institutions Code is
29 amended to read:

30 5772. The California Mental Health Planning Council shall
31 have the powers and authority necessary to carry out the duties
32 imposed upon it by this chapter, including, but not limited to, the
33 following:

34 (a) To advocate for effective, quality mental health programs.

35 (b) To review, assess, and make recommendations regarding
36 all components of California's mental health system, and to report
37 as necessary to the Legislature, the State Department of ~~Mental~~
38 Health *Care Services*, local boards, and local programs.

1 (c) To review program performance in delivering mental health
2 services by annually reviewing performance outcome data as
3 follows:

4 (1) To review and approve the performance outcome measures.

5 (2) To review the performance of mental health programs based
6 on performance outcome data and other reports from the State
7 Department of ~~Mental~~ *Health Care Services* and other sources.

8 (3) To report findings and recommendations on programs'
9 performance annually to the Legislature, the State Department of
10 ~~Mental~~ *Health Care Services*, and the local boards.

11 (4) To identify successful programs for recommendation and
12 for consideration of replication in other areas. As data and
13 technology are available, identify programs experiencing
14 difficulties.

15 (d) When appropriate, make a finding pursuant to Section 5655
16 that a county's performance is failing in a substantive manner. The
17 State Department of ~~Mental~~ *Health Care Services* shall investigate
18 and review the finding, and report the action taken to the
19 Legislature.

20 (e) To advise the Legislature, the State Department of ~~Mental~~
21 *Health Care Services*, and county boards on mental health issues
22 and the policies and priorities that this state should be pursuing in
23 developing its mental health system.

24 (f) To periodically review the state's data systems and
25 paperwork requirements to ensure that they are reasonable and in
26 compliance with state and federal law.

27 (g) To make recommendations to the State Department of
28 ~~Mental~~ *Health Care Services* on the award of grants to county
29 programs to reward and stimulate innovation in providing mental
30 health services.

31 (h) To conduct public hearings on the state mental health plan,
32 the Substance Abuse and Mental Health Services Administration
33 block grant, and other topics, as needed.

34 (i) To participate in the recruitment of candidates for the position
35 of Director of ~~Mental~~ *Health Care Services* and provide advice on
36 the final selection.

37 (j) In conjunction with other statewide and local mental health
38 organizations, assist in the coordination of training and information
39 to local mental health boards as needed to ensure that they can
40 effectively carry out their duties.

1 (k) To advise the Director of ~~Mental~~ *Health Care Services* on
2 the development of the state mental health plan and the system of
3 priorities contained in that plan.

4 (l) To assess periodically the effect of realignment of mental
5 health services and any other important changes in the state's
6 mental health system, and to report its findings to the Legislature,
7 the State Department of ~~Mental~~ *Health Care Services*, local
8 programs, and local boards, as appropriate.

9 (m) To suggest rules, regulations, and standards for the
10 administration of this division.

11 (n) When requested, to mediate disputes between counties and
12 the state arising under this part.

13 (o) To employ administrative, technical, and other personnel
14 necessary for the performance of its powers and duties, subject to
15 the approval of the Department of Finance.

16 (p) To accept any federal fund granted, by act of Congress or
17 by executive order, for purposes within the purview of the
18 California Mental Health Planning Council, subject to the approval
19 of the Department of Finance.

20 (q) To accept any gift, donation, bequest, or grants of funds
21 from private and public agencies for all or any of the purposes
22 within the purview of the California Mental Health Planning
23 Council, subject to the approval of the Department of Finance.

24 SEC. 49. Section 5815 of the Welfare and Institutions Code is
25 amended to read:

26 5815. The State Department of Health Care Services, ~~in~~
27 ~~conjunction with the State Department of Mental Health~~, shall
28 seek all available federal funding for mental health services for
29 veterans.

30 SEC. 50. Section 5840 of the Welfare and Institutions Code is
31 amended to read:

32 5840. (a) The State Department of ~~Mental~~ *Health Care*
33 *Services* shall establish a program designed to prevent mental
34 illnesses from becoming severe and disabling. The program shall
35 emphasize improving timely access to services for underserved
36 populations.

37 (b) The program shall include the following components:

38 (1) Outreach to families, employers, primary care health care
39 providers, and others to recognize the early signs of potentially
40 severe and disabling mental illnesses.

1 (2) Access and linkage to medically necessary care provided
2 by county mental health programs for children with severe mental
3 illness, as defined in Section 5600.3, and for adults and seniors
4 with severe mental illness, as defined in Section 5600.3, as early
5 in the onset of these conditions as practicable.

6 (3) Reduction in stigma associated with either being diagnosed
7 with a mental illness or seeking mental health services.

8 (4) Reduction in discrimination against people with mental
9 illness.

10 (c) The program shall include mental health services similar to
11 those provided under other programs effective in preventing mental
12 illnesses from becoming severe, and shall also include components
13 similar to programs that have been successful in reducing the
14 duration of untreated severe mental illnesses and assisting people
15 in quickly regaining productive lives.

16 (d) The program shall emphasize strategies to reduce the
17 following negative outcomes that may result from untreated mental
18 illness:

19 (1) Suicide.

20 (2) Incarcerations.

21 (3) School failure or dropout.

22 (4) Unemployment.

23 (5) Prolonged suffering.

24 (6) Homelessness.

25 (7) Removal of children from their homes.

26 (e) In consultation with *the Mental Health Services Oversight*
27 *and Accountability Commission* and mental health stakeholders,
28 *and consistent with evaluation data*, the department shall revise
29 the program elements in Section 5840 applicable to all county
30 mental health programs in future years to reflect what is learned
31 about the most effective prevention and intervention programs for
32 children, adults, and seniors.

33 SEC. 51. Section 5845 of the Welfare and Institutions Code is
34 amended to read:

35 5845. (a) The Mental Health Services Oversight and
36 Accountability Commission is hereby established to oversee Part
37 3 (commencing with Section 5800), the Adult and Older Adult
38 Mental Health System of Care Act; Part 3.1 (commencing with
39 Section 5820), Human Resources, Education, and Training
40 Programs; Part 3.2 (commencing with Section 5830), Innovative

1 Programs; Part 3.6 (commencing with Section 5840), Prevention
2 and Early Intervention Programs; and Part 4 (commencing with
3 Section 5850), the Children's Mental Health Services Act. The
4 commission shall replace the advisory committee established
5 pursuant to Section 5814. The commission shall consist of 16
6 voting members as follows:

7 (1) The Attorney General or his or her designee.

8 (2) The Superintendent of Public Instruction or his or her
9 designee.

10 (3) The Chairperson of the Senate Health and Human Services
11 Committee or another member of the Senate selected by the
12 President pro Tempore of the Senate.

13 (4) The Chairperson of the Assembly Health Committee or
14 another member of the Assembly selected by the Speaker of the
15 Assembly.

16 (5) Two persons with a severe mental illness, a family member
17 of an adult or senior with a severe mental illness, a family member
18 of a child who has or has had a severe mental illness, a physician
19 specializing in alcohol and drug treatment, a mental health
20 professional, a county sheriff, a superintendent of a school district,
21 a representative of a labor organization, a representative of an
22 employer with less than 500 employees and a representative of an
23 employer with more than 500 employees, and a representative of
24 a health care services plan or insurer, all appointed by the
25 Governor. In making appointments, the Governor shall seek
26 individuals who have had personal or family experience with
27 mental illness.

28 (b) Members shall serve without compensation, but shall be
29 reimbursed for all actual and necessary expenses incurred in the
30 performance of their duties.

31 (c) The term of each member shall be three years, to be
32 staggered so that approximately one-third of the appointments
33 expire in each year.

34 (d) In carrying out its duties and responsibilities, the commission
35 may do all of the following:

36 (1) Meet at least once each quarter at any time and location
37 convenient to the public as it may deem appropriate. All meetings
38 of the commission shall be open to the public.

39 (2) Within the limit of funds allocated for these purposes,
40 pursuant to the laws and regulations governing state civil service,

1 employ staff, including any clerical, legal, and technical assistance
2 as may appear necessary. The commission shall administer its
3 operations separate and apart from the State Department of ~~Mental~~
4 *Health Care Services*.

5 (3) Establish technical advisory committees such as a committee
6 of consumers and family members.

7 (4) Employ all other appropriate strategies necessary or
8 convenient to enable it to fully and adequately perform its duties
9 and exercise the powers expressly granted, notwithstanding any
10 authority expressly granted to any officer or employee of state
11 government.

12 (5) Enter into contracts.

13 (6) Obtain data and information from the State Department of
14 ~~Mental Health Care Services, the Office of Statewide Health~~
15 *Planning and Development*, or other state or local entities that
16 receive Mental Health Services Act funds, for the commission to
17 utilize in its oversight, review, and evaluation capacity regarding
18 projects and programs supported with Mental Health Services Act
19 funds.

20 (7) Participate in the joint state-county decisionmaking process,
21 as contained in Section 4061, for training, technical assistance,
22 and regulatory resources to meet the mission and goals of the
23 state's mental health system.

24 (8) Develop strategies to overcome stigma and accomplish all
25 other objectives of Part 3.2 (commencing with Section 5830), 3.6
26 (commencing with Section 5840), and the other provisions of the
27 act establishing this commission.

28 (9) At any time, advise the Governor or the Legislature regarding
29 actions the state may take to improve care and services for people
30 with mental illness.

31 (10) If the commission identifies a critical issue related to the
32 performance of a county mental health program, it may refer the
33 issue to the State Department of ~~Mental Health Care Services~~
34 pursuant to Section 5655.

35 SEC. 52. Section 5851.5 of the Welfare and Institutions Code
36 is amended to read:

37 5851.5. For the purposes of this part, a "system of care county"
38 means a county ~~which~~ *that* has been approved by the State
39 Department of ~~Mental Health Care Services~~ as having the

1 capability to provide child- and family-centered services in a
2 collaborative manner, resulting in quantitative outcome measures.

3 SEC. 53. Section 5852.5 of the Welfare and Institutions Code
4 is amended to read:

5 5852.5. ~~The department~~ *State Department of Health Care*
6 *Services* shall review those counties that have been awarded funds
7 to implement a comprehensive system for the delivery of mental
8 health services to children with serious emotional disturbance and
9 to their families or foster families to determine compliance with
10 either of the following:

11 (a) The total estimated cost avoidance in all of the following
12 categories shall equal or exceed the applications for funding award
13 moneys:

14 (1) Group home costs paid by Aid to Families with Dependent
15 Children-Foster Care (AFDC-FC) program.

16 (2) Children and adolescent state hospital and acute inpatient
17 programs.

18 (3) Nonpublic school residential placement costs.

19 (4) Juvenile justice reincarcerations.

20 (5) Other short- and long-term savings in public funds resulting
21 from the applications for funding award moneys.

22 (b) If the department determines that the total cost avoidance
23 listed in subdivision (a) does not equal or exceed applications for
24 funding award amounts, the department shall determine that the
25 county that has been awarded funding shall achieve substantial
26 compliance with all of the following goals:

27 (1) Total cost avoidance in the categories listed in subdivision
28 (a) to exceed 50 percent of the applications for funding award
29 moneys.

30 (2) A 20-percent reduction in out-of-county ordered placements
31 of juvenile justice wards and social service dependents.

32 (3) A statistically significant reduction in the rate of recidivism
33 by juvenile offenders.

34 (4) A 25-percent reduction in the rate of state hospitalization of
35 minors from placements of special education pupils.

36 (5) A 10-percent reduction in out-of-county nonpublic school
37 residential placements of special education pupils.

38 (6) Allow at least 50 percent of children at risk of imminent
39 placement served by the intensive in-home crisis treatment

1 programs, which are wholly or partially funded by applications
2 for funding award moneys, to remain at home at least six months.

3 (7) Statistically significant improvement in school attendance
4 and academic performance of seriously emotionally disturbed
5 special education pupils treated in day treatment programs which
6 are wholly or partially funded by applications for funding award
7 moneys.

8 (8) Statistically significant increases in services provided in
9 nonclinic settings among agencies.

10 (9) Increase in ethnic minority and gender access to services
11 proportionate to the percentage of these groups in the county's
12 school-age population.

13 SEC. 54. Section 5854 of the Welfare and Institutions Code is
14 amended to read:

15 5854. The State Department of ~~Mental Health~~ *Care Services*
16 may contract with counties whose programs have been approved
17 by the department and selected pursuant to Article 4 (commencing
18 with Section 5857). A county may request to participate under this
19 part each year according to the terms set forth in Section 5705 for
20 the purpose of establishing a three-year program proposal for
21 developing and implementing a children's comprehensive mental
22 health services system. The contract shall be negotiated on a yearly
23 basis, based on the scope of work plan for each implementation
24 phase.

25 SEC. 55. Section 5855 of the Welfare and Institutions Code is
26 amended to read:

27 5855. ~~The department shall~~ *State Department of Health Care*
28 *Services may* adopt as part of its overall mission the development
29 of community-based, comprehensive, interagency systems of care
30 that target seriously emotionally and behaviorally disturbed
31 children separated from their families or at risk of separation from
32 their families, as ~~defined~~ *specified* in Section 5856. These
33 comprehensive, interagency systems of care shall seek to provide
34 the highest benefit to children, their families, and the community
35 at the lowest cost to the public sector. Essential values shall be as
36 follows:

37 (a) Family preservation. Children shall be maintained in their
38 homes with their families whenever possible.

1 (b) Least restrictive setting. Children shall be placed in the least
2 restrictive and least costly setting appropriate to their needs when
3 out-of-home placement is necessary.

4 (c) Natural setting. Children benefit most from mental health
5 services in their natural environments, where they live and learn,
6 such as home, school, foster home, or a juvenile detention center.

7 (d) Interagency collaboration and a coordinated service delivery
8 system. The primary child-serving agencies, such as social services,
9 probation, education, health, and mental health agencies, shall
10 collaborate at the policy, management, and service levels to provide
11 a coordinated, goal-directed system of care for seriously
12 emotionally disturbed children and their families.

13 (e) Family involvement. Family participation is an integral part
14 of assessment, intervention, and evaluation.

15 (f) Cultural competence. Service effectiveness is dependent
16 upon both culturally relevant and competent service delivery.

17 SEC. 56. Section 5855.5 of the Welfare and Institutions Code
18 is amended to read:

19 5855.5. (a) Projects funded pursuant to Part 4 (commencing
20 with Section 5850) of Division 5, as added by Chapter 89 of the
21 Statutes of 1991, shall continue under the terms of this part.

22 (b) ~~The department~~ *State Department of Health Care Services*
23 shall negotiate with each participating county to establish
24 appropriate evaluation measures for the county's children's system
25 of care program after the initial three-year implementation funding
26 period as established in Section 5854. The department shall, on
27 an annual basis, negotiate a performance contract with each county
28 electing to continue its children's system of care program. The
29 annual performance contract shall be consistent county to county,
30 and shall include, but not be limited to, a scope of work plan
31 consistent with the provisions of this part and shall contain a budget
32 that has sufficient detail to meet the requirements of the
33 department.

34 SEC. 57. Section 5868 of the Welfare and Institutions Code is
35 amended to read:

36 5868. (a) ~~The department~~ *State Department of Health Care*
37 *Services* shall establish service standards that ensure that children
38 in the target population are identified and receive needed and
39 appropriate services from qualified staff in the least restrictive
40 environment.

(b) The standards shall include, but not be limited to:

(1) Providing a comprehensive assessment and treatment plan for each target population client to be served, and developing programs and services that will meet their needs and facilitate client outcome goals.

(2) Providing for full participation of the family in all aspects of assessment, case planning, and treatment.

(3) Providing methods of assessment and services to meet the cultural, linguistic, and special needs of minorities in the target population.

(4) Providing for staff with the cultural background and linguistic skills necessary to remove barriers to mental health services resulting from a limited ability to speak English or from cultural differences.

(5) Providing mental health case management for all target population clients in, or being considered for, out-of-home placement.

(6) Providing mental health services in the natural environment of the child to the extent feasible and appropriate.

(c) The responsibility of the case managers shall be to ensure that each child receives the following services:

(1) A comprehensive mental health assessment.

(2) Case planning with all appropriate interagency participation.

(3) Linkage with all appropriate mental health services.

(4) Service plan monitoring.

(5) Client advocacy to ensure the provision of needed services.

SEC. 58. Section 5869 of the Welfare and Institutions Code is amended to read:

5869. ~~The department~~ *State Department of Health Care Services* shall provide participating counties with all of the following:

(a) Applications for funding guidelines and format, and coordination and oversight of the selection process as described in Article 4 (commencing with Section 5857).

(b) Contracts with each state funded county specifying the approved budget, performance outcomes, and a scope of work plan for each year of participation in the children's system of care program.

(c) Technical assistance related to system evaluation.

1 SEC. 59. Section 5878 of the Welfare and Institutions Code is
2 amended to read:

3 5878. (a) (1) The Secretary of ~~the California Health and~~
4 ~~Welfare Agency Human Services~~, the Superintendent of Public
5 Instruction, or the Secretary of the ~~Youth and Corrections Agency~~
6 *Department of Corrections and Rehabilitation* may waive any
7 state regulatory obstacles to the integration of public
8 responsibilities and resources required for counties which have
9 been approved as system of care counties.

10 (2) The waiver shall remain in effect as long as the local program
11 continues to meet standards as specified in the scope of work plan
12 approved by the State Department of ~~Mental Health Care Services~~.

13 (b) The Secretary of *California Health and Welfare Human*
14 *Services*, the Superintendent of Public Instruction, and the Secretary
15 of the ~~Youth and Corrections Agency~~ *Department of Corrections*
16 *and Rehabilitation*, and those departments designated as single
17 state agencies administering federal programs, shall make every
18 effort to secure federal waivers and any other changes in federal
19 policy or law necessary to support interagency collaboration and
20 coordination in a system of care service delivery system.

21 SEC. 60. Section 5878.3 of the Welfare and Institutions Code
22 is amended to read:

23 5878.3. (a) Subject to the availability of funds as determined
24 pursuant to Part 4.5 (commencing with Section 5890) of this
25 division, county mental health programs shall offer services to
26 severely mentally ill children for whom services under any other
27 public or private insurance or other mental health or entitlement
28 program is inadequate or unavailable. Other entitlement programs
29 include but are not limited to mental health services available
30 pursuant to Medi-Cal, child welfare, and special education
31 programs. The funding shall cover only those portions of care that
32 cannot be paid for with public or private insurance, other mental
33 health funds or other entitlement programs.

34 (b) Funding shall be at sufficient levels to ensure that counties
35 can provide each child served all of the necessary services set forth
36 in the applicable treatment plan developed in accordance with this
37 part, including services where appropriate and necessary to prevent
38 an out of home placement, such as services pursuant to Chapter 4
39 (commencing with Section 18250) of Part 6 of Division 9.

1 (c) The State Department of ~~Mental Health~~ *Care Services* shall
2 contract with county mental health programs for the provision of
3 services under this article in the manner set forth in Section 5897.

4 SEC. 61. Section 5880 of the Welfare and Institutions Code is
5 amended to read:

6 5880. For each selected county, the ~~department~~ *State*
7 *Department of Health Care Services* shall define and establish
8 client and cost outcome and other system performance goals, and
9 negotiate the expected levels of attainment for each year of
10 participation. Expected levels of attainment shall include a
11 breakdown by ethnic origin and shall be identified by a county in
12 its proposal. These goals shall include, but not be limited to, both
13 of the following:

14 (a) Client improvement and cost avoidance outcome measures,
15 as follows:

16 (1) To reduce the number of child months in group homes,
17 residential placements pursuant to Chapter 26.5 (commencing with
18 Section 7570) of Division 7 of Title 1 of the Government Code,
19 and state hospital placements.

20 (2) To reduce the cost of AFDC-FC group home care, residential
21 placements as described in paragraph (1), and state hospital
22 utilization, by an amount which equals at least 50 percent of the
23 third year project cost. Cost avoidance shall be based on data
24 comparisons of statewide average expenditure and population.

25 (3) To increase school attendance for pupils in targeted
26 programs.

27 (4) To increase the grade level equivalent of pupils in targeted
28 programs from admission to discharge.

29 (5) To reduce the rate of recidivism incurred for wards in
30 targeted juvenile justice programs.

31 (6) To show measurable improvement in individual and family
32 functional status for a representative sample of children enrolled
33 in the system of care.

34 (7) To achieve statistically significant increases in services
35 provided in nonclinic settings among agencies.

36 (8) To increase ethnic minority and gender access to services
37 proportionate to the percentage of these groups in the county's
38 school-age population.

39 (b) System development and operation measures, as follows:

1 (1) To provide an integrated system of care that includes
2 multiagency programs and joint case planning, to children who
3 are seriously emotionally and behaviorally disturbed as ~~defined~~
4 *specified* in Section 5856.

5 (2) To identify and assess children who comprise the target
6 population in the county evidenced by a roster which contains all
7 children receiving mental health case management and treatment
8 services. This roster shall include necessary standardized and
9 uniform identifying information and demographics about the
10 children served.

11 (3) To develop and maintain individualized service plans that
12 will facilitate interagency service delivery in the least restrictive
13 environment.

14 (4) To develop or provide access to a range of intensive services
15 that will meet individualized service plan needs. These services
16 shall include, but not be limited to, case management, expanded
17 treatment services at schoolsites, local juvenile corrections
18 facilities, and local foster homes, and flexible services.

19 (5) To ensure the development and operation of the interagency
20 policy council and the interagency case management council.

21 (6) To provide culturally competent programs that recognize
22 and address the unique needs of ethnic populations in relation to
23 equal access, program design and operation, and program
24 evaluation.

25 (7) To develop parent education and support groups, and
26 linkages with parents to ensure their involvement in the planning
27 process and the delivery of services.

28 (8) To provide a system of evaluation that develops outcome
29 criteria and ~~which~~ *that* will measure performance, including client
30 outcome and cost avoidance.

31 (9) To gather, manage, and report data in accordance with the
32 requirements of the state funded outcome evaluation.

33 SEC. 62. Section 5890 of the Welfare and Institutions Code is
34 amended to read:

35 5890. (a) The Mental Health Services Fund is hereby created
36 in the State Treasury. The fund shall be administered by the state.
37 Notwithstanding Section 13340 of the Government Code, all
38 moneys in the fund are, except as provided in subdivision (d) of
39 Section 5892, continuously appropriated, without regard to fiscal

1 years, for the purpose of funding the following programs and other
2 related activities as designated by other provisions of this division:

3 (1) Part 3 (commencing with Section 5800), the Adult and Older
4 Adult System of Care Act.

5 (2) Part 3.6 (commencing with Section 5840), Prevention and
6 Early Intervention Programs.

7 (3) Part 4 (commencing with Section 5850), the Children's
8 Mental Health Services Act.

9 (b) Nothing in the establishment of this fund, nor any other
10 provisions of the act establishing it or the programs funded shall
11 be construed to modify the obligation of health care service plans
12 and disability insurance policies to provide coverage for mental
13 health services, including those services required under Section
14 1374.72 of the Health and Safety Code and Section 10144.5 of the
15 Insurance Code, related to mental health parity. Nothing in this
16 act shall be construed to modify the oversight duties of the
17 Department of Managed Health Care or the duties of the
18 Department of Insurance with respect to enforcing these obligations
19 of plans and insurance policies.

20 (c) Nothing in this act shall be construed to modify or reduce
21 the existing authority or responsibility of the State Department of
22 *Mental Health Care Services*.

23 ~~(d) The State Department of Health Care Services, in~~
24 ~~consultation with the State Department of Mental Health, shall~~
25 seek approval of all applicable federal Medicaid approvals to
26 maximize the availability of federal funds and eligibility of
27 participating children, adults, and seniors for medically necessary
28 care.

29 (e)

30 (d) Share of costs for services pursuant to Part 3 (commencing
31 with Section 5800), and Part 4 (commencing with Section 5850)
32 of this division, shall be determined in accordance with the
33 Uniform Method for Determining Ability to Pay applicable to
34 other publicly funded mental health services, unless this Uniform
35 Method is replaced by another method of determining co-payments,
36 in which case the new method applicable to other mental health
37 services shall be applicable to services pursuant to Part 3
38 (commencing with Section 5800), and Part 4 (commencing with
39 Section 5850) of this division.

1 SEC. 63. Section 11325.7 of the Welfare and Institutions Code
2 is amended to read:

3 11325.7. (a) It is the intent of the Legislature in enacting this
4 section to create a funding stream and program that assists certain
5 recipients of aid under this chapter to receive necessary mental
6 health services, including case management and treatment, thereby
7 enabling them to make the transition from welfare to work. This
8 funding stream shall be used specifically to serve recipients in
9 need of mental health services, and shall be accounted for and
10 expended by each county in a manner that ensures that recipients
11 in need of mental health services are receiving appropriate services.

12 (b) The county plan required by Section 10531 shall include a
13 plan for the development of mental health employment assistance
14 services, developed jointly by the county welfare department and
15 the county department of mental health. The plan shall have as its
16 goal the treatment of mental or emotional disabilities that may
17 limit or impair the ability of a recipient to make the transition from
18 welfare-to-work, or that may limit or impair the ability to retain
19 employment over a long-term period. The plan shall be developed
20 in a manner consistent with both the county's welfare-to-work
21 program and the county's consolidated mental health Medi-Cal
22 services plan. The county may use community based providers,
23 as necessary, that have experience in addressing the needs of the
24 CalWORKs population. The county, whenever possible, shall
25 ensure that the services provided qualify for federal reimbursement
26 of the nonstate share of Medi-Cal costs.

27 (c) Subject to specific expenditure authority, mental health
28 services available under this section shall include all of the
29 following elements:

30 (1) Assessment for the purpose of identifying the level of the
31 participant's mental health needs and the appropriate level of
32 treatment and rehabilitation for the participant.

33 (2) Case management, as appropriate, as determined by the
34 county.

35 (3) Treatment and rehabilitation services, that shall include
36 counseling, as necessary to overcome mental health barriers to
37 employment and mental health barriers to retaining employment,
38 in coordination with an individual's welfare-to-work plan.

39 (4) In cases where a secondary diagnosis of substance abuse is
40 made in a person referred for mental or emotional disorders, the

1 welfare-to-work plan shall also address the substance abuse
2 treatment needs of the participant.

3 (5) A process by which the county can identify those with severe
4 mental disabilities that may qualify them for aid under Chapter 3
5 (commencing with Section 12000).

6 (d) Any funds appropriated by the Legislature to cover the
7 nonfederal costs of the mental health employment assistance
8 services required by this section shall be allocated consistent with
9 the formula used to distribute each county's CalWORKs program
10 allocation. Each county shall report annually to the state the number
11 of CalWORKs program recipients who received mental health
12 services and the extent to which the allocation is sufficient to meet
13 the need for these services as determined by the county. The State
14 Department of ~~Mental Health~~ *Care Services* shall develop a
15 uniform methodology for ensuring that this allocation supplements
16 and does not supplant current expenditure levels for mental health
17 services for this population.

18 SEC. 64. Section 11462.01 of the Welfare and Institutions
19 Code is amended to read:

20 11462.01. (a) Commencing July 1, 1994, a group home
21 program shall be classified at RCL 13 or RCL 14 if the program
22 meets all of the following requirements:

23 (1) The group home program is providing, or has proposed to
24 provide, the level of care and services necessary to generate
25 sufficient points in the ratesetting process to be classified at RCL
26 13 if the rate application is for RCL 13 or to be classified at RCL
27 14 if the rate application is for RCL 14.

28 (2) (A) (i) The group home provider shall agree not to accept
29 for placement into a group home program AFDC-FC funded
30 children, including voluntary placements and seriously emotionally
31 disturbed children placed out-of-home pursuant to an individualized
32 education program developed under *former* Section 7572.5 of the
33 Government Code, who have not been approved for placement by
34 an interagency placement committee, as described by Section 4096.
35 The approval shall be in writing and shall indicate that the
36 interagency placement committee has determined the child is
37 seriously emotionally disturbed, as ~~defined by~~ *specified in* Section
38 5600.3 and subject to Section 1502.4 of the Health and Safety
39 Code, and that the child needs the level of care provided by the
40 group home.

(ii) For purposes of clause (i), group home providers who accept seriously emotionally disturbed children who are assessed and placed out-of-home pursuant to an individualized education program developed under *former* Section 7572.5 of the Government Code shall be deemed to have met the interagency placement committee approval for placement requirements of clause (i) if the individualized education program assessment indicates that the child has been determined to be seriously emotionally disturbed, as ~~defined~~ *specified* in Section 5600.3 and subject to Section 1502.4 of the Health and Safety Code, and needs the level of care described in clause (i).

(B) (i) Nothing in this subdivision shall prevent the emergency placement of a child into a group home program prior to the determination by the interagency placement committee pursuant to subclause (i) of subparagraph (A) if a licensed mental health professional, as defined in the department's AFDC-FC ratesetting regulations, has evaluated, in writing, the child within 72 hours of placement, and determined the child to be seriously emotionally disturbed and in need of the care and services provided by the group home program.

(ii) The interagency placement committee shall, within 30 days of placement pursuant to clause (i), make the determination required by clause (i) of subparagraph (A).

(iii) If, pursuant to clause (ii), the placement is determined to be appropriate, the committee shall transmit the approval, in writing, to the county placing agency and the group home provider.

(iv) If, pursuant to clause (ii) the placement is determined not to be appropriate, the child shall be removed from the group home and referred to a more appropriate placement, as specified in subdivision (f).

(C) Commencing December 15, 1992, with respect to AFDC-FC funded children, only those children who are approved for placement by an interagency placement committee may be accepted by a group home under this subdivision.

(3) The group home program is certified by the State Department of ~~Mental Health~~ *Care Services* pursuant to Section 4096.5.

(b) The department shall not establish a rate for a group home requesting a program change to RCL 13 or RCL 14 unless the group home provider submits a recommendation from the host county or the primary placing county that the program is needed

1 and that the provider is willing and capable of operating the
2 program at the level sought. For purposes of this subdivision, “host
3 county,” “primary placing county,” and “program change” mean
4 the same as defined in the department’s AFDC-FC ratesetting
5 regulations.

6 (c) The effective date of rates set at RCL 13 or RCL 14 shall
7 be the date that all the requirements are met, but not prior to July
8 1 of that fiscal year. Nothing in this section shall affect RCL 13
9 or RCL 14 ratesetting determinations in prior years.

10 (d) Any group home program that has been classified at RCL
11 13 or RCL 14 pursuant to the requirements of subdivision (a) shall
12 be reclassified at the appropriate lower RCL with a commensurate
13 reduction in rate if either of the following occurs:

14 (1) The group home program fails to maintain the level of care
15 and services necessary to generate the necessary number of points
16 for RCL 13 or RCL 14, as required by paragraph (1) of subdivision
17 (a). The determination of points shall be made consistent with the
18 department’s AFDC-FC ratesetting regulations for other rate
19 classification levels.

20 (2) The group home program fails to maintain a certified mental
21 health treatment program as required by paragraph (3) of
22 subdivision (a).

23 (3) In the event of a determination under paragraph (1), the
24 group home may appeal the finding or submit a corrective action
25 plan. The appeal process specified in Section 11466.6 shall be
26 available to RCL 13 and RCL 14 group home providers. During
27 any appeal, the group home shall maintain the appropriate level
28 of care.

29 (e) The interagency placement committee shall periodically
30 review, but no less often than that required by current law, the
31 placement of the child. If the committee determines that the child
32 no longer needs, or is not benefiting from, placement in a RCL 13
33 or RCL 14 group home, the committee shall require the removal
34 of the child and a new disposition.

35 (f) (1) (A) If, at any time subsequent to placement in an RCL
36 13 or RCL 14 group home program, the interagency placement
37 committee determines either that the child is not seriously
38 emotionally disturbed or is not in need of the care and services
39 provided by the group home program, it shall notify, in writing,

1 both the county placing agency and the group home provider within
2 10 days of the determination.

3 (B) The county placing agency shall notify the group home
4 provider, in writing, within five days from the date of the notice
5 from the committee, of the county's plan for removal of the child.

6 (C) The county placing agency shall remove the child from the
7 group home program within 30 days from the date of the notice
8 from the interagency placement committee.

9 (2) (A) If a county placing agency does not remove a child
10 within 30 days from the date of the notice from the interagency
11 placement committee, the group home provider shall notify the
12 interagency placement committee and the department, in writing,
13 of the county's failure to remove the child from the group home
14 program.

15 (B) The group home provider shall make the notification
16 required by subparagraph (A) within five days of the expiration
17 of the 30-day removal period. If notification is made, a group home
18 provider shall not be subject to an overpayment determination due
19 to failure of the county placing agency to remove the child.

20 (3) Any county placing agency that fails to remove a child from
21 a group home program under this paragraph within 30 days from
22 the date of the notice from the interagency placement committee
23 shall be assessed a penalty in the amount of the state and federal
24 financial participation in the AFDC-FC rate paid on behalf of the
25 child commencing on the 31st day and continuing until the child
26 is removed.

27 (g) (1) If any RCL 13 or RCL 14 group home provider discovers
28 that it does not have written approval for placement of any
29 AFDC-FC funded child placed on or after December 15, 1992,
30 from the interagency placement committee, it shall notify the
31 county placing agency, in writing, and shall request the county to
32 obtain approval from the interagency placement committee or
33 remove the child from the group home program. A group home
34 provider shall have 30 days from the child's first day of placement
35 to discover the placement error and to notify the county placing
36 agency.

37 (2) Any county placing agency that receives notification
38 pursuant to paragraph (2) of subdivision (f) shall obtain approval
39 for placement from the interagency placement committee or remove
40 the child from the group home program within 30 days from the

1 date of the notice from the group home provider. The program
2 shall not be reclassified to a lower RCL for a violation of the
3 provisions referred to in this paragraph.

4 (3) (A) If a county placing agency does not have the placement
5 of a child approved by the interagency placement committee or
6 removed from the group home within 30 days from the date of the
7 notice from the group home provider, the group home provider
8 shall notify the county placing agency and the department, in
9 writing, of the county's failure to have the placement of the child
10 approved or remove the child from the group home program.

11 (B) The group home provider shall make the notification
12 required by subparagraph (A) within five days after the expiration
13 of the 30-day approval or removal period. If notification is made,
14 a group home provider shall not be subject to an overpayment
15 determination due to failure of the county placing agency to remove
16 the child.

17 (C) Any group home provider that fails to notify the county
18 placing agency pursuant to subparagraph (A) shall be assessed a
19 penalty in the amount of the AFDC-FC rate paid to the group home
20 provider on behalf of the child commencing on the 31st day of
21 placement and continuing until the county placing agency is
22 notified.

23 (4) Any county placing agency that fails to have the placement
24 of a child approved or to have the child removed from the group
25 home program within 30 days shall be assessed a penalty in the
26 amount of the state and federal financial participation in the
27 AFDC-FC rate paid on behalf of the child commencing on the 31st
28 day of placement and continuing until the child is removed.

29 (h) The department shall develop regulations to obtain payment
30 of assessed penalties as provided in this section. For audit purposes
31 and the application of penalties for RCL 13 and RCL 14 programs,
32 the department shall apply statutory provisions that were in effect
33 during the period for which the audit was conducted.

34 (i) (1) Nothing in this subparagraph shall prohibit a group home
35 classified at RCL 13 or RCL 14 for purposes of the AFDC-FC
36 program, from accepting private placements of children.

37 (2) In cases where a referral is not from a public agency and no
38 public funding is involved, there shall be no requirement for public
39 agency review or determination of need.

(3) Children subject to paragraphs (1) and (2) shall have been assessed as seriously emotionally disturbed, as ~~defined~~ *specified* in Section 5600.3 and subject to Section 1502.4 of the Health and Safety Code, by a licensed mental health professional, as ~~defined~~ in ~~Sections 629 to 633, inclusive,~~ *specified in Article 8 (commencing with Section 620)* of Title 9 of the California Code of Regulations.

(j) A child shall not be placed in a group home program classified at an RCL 13 or RCL 14 if the placement is paid for with county-only funds unless the child is assessed as seriously emotionally disturbed, as ~~defined~~ *specified* in Section 5600.3, subject to Section 1502.4 of the Health and Safety Code, by a licensed mental health professional, as ~~defined in Sections 629 to 633, inclusive,~~ *specified in Article 8 (commencing with Section 620)* of Title 9 of the California Code of Regulations.

SEC. 65. Section 18986.40 of the Welfare and Institutions Code is amended to read:

18986.40. (a) For the purposes of this chapter, “program” or “integrated children’s services programs” means a coordinated children’s service system, operating as a program that is part of a department or State Department of ~~Mental Health Care Services~~ initiative, that offers a full range of integrated behavioral social, health, and mental health services, including applicable educational services, to seriously emotionally disturbed and special needs children, or programs established by county governments, local education agencies, or consortia of public and private agencies, to jointly provide two or more of the following services to children or their families, or both:

(1) Educational services for children at risk of dropping out, or who need additional educational services to be successful academically.

(2) Health care.

(3) All mental health diagnostic and treatment services, including medication.

(4) Substance abuse prevention and treatment.

(5) Child abuse prevention, identification, and treatment.

(6) Nutrition services.

(7) Child care and development services.

(8) Juvenile justice services.

(9) Child welfare services.

1 (10) Early intervention and prevention services.

2 (11) Crisis intervention services, as defined in subdivision (c).

3 (12) Any other service which will enhance the health,
4 development, and well-being of children and their families.

5 (b) For the purposes of this chapter, “children’s multidisciplinary
6 services team” means a team of two or more persons trained and
7 qualified to provide one or more of the services listed in
8 subdivision (a), who are responsible in the program for identifying
9 the educational, health, or social service needs of a child and his
10 or her family, and for developing a plan to address those needs. A
11 family member, or the designee of a family member, shall be
12 invited to participate in team meetings and decisions, unless the
13 team determines that, in its professional judgment, this participation
14 would present a reasonable risk of a significant adverse or
15 detrimental effect on the minor’s psychological or physical safety.
16 Members of the team shall be trained in the confidentiality and
17 information sharing provisions of this chapter.

18 (c) “Crisis intervention services” means early support and
19 psychological assistance, to be continued as necessary, to children
20 who have been victims of, or whose lives have been affected by,
21 a violent crime or a cataclysmic incident, such as a natural disaster,
22 or who have been involved in school, neighborhood, or family
23 based critical incidents likely to cause profound psychological
24 effects if not addressed immediately and thoroughly.

25 SEC. 66. The Legislature finds and declares that Sections 50
26 and 51 of this act clarify procedures and terms of the Mental Health
27 Services Act within the meaning of Section 18 of the Mental Health
28 Services Act.